PROVINCE OF SASKATCHEWAN

09-10

ANNUAL REPORT

MINISTRY OF JUSTICE AND ATTORNEY GENERAL

Saskatchewan Public
Complaints Commission

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This annual report is also available in electronic format from the Ministry's website at **www.justice.gov.sk.ca**

Letters of Transmittal

His Honour the Honourable Dr. Gordon L. Barnhart
Lieutenant Governor, Province of Saskatchewan

May it Please Your Honour:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2010.

D R Morgan

Don Morgan, Q.C.
Minister of Justice and Attorney General

The Honourable Don Morgan, Q.C.
Minister of Justice and Attorney General

Dear Sir:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2010.

R W Mitchell

Robert W. Mitchell, Q.C.
Chair

Mission Statement

The Public Complaints Commission is an independent panel of non-police persons appointed by the Saskatchewan Government to ensure that both the public and the police receive a fair and thorough investigation of a complaint against the municipal police in Saskatchewan.

One of the main functions of the police is the protection of the general public. Police services realize that their officers must maintain a high degree of public support to effectively carry out their duties. It is recognized that occasions arise when citizens feel they have not been treated fairly by a police officer. For that reason a citizen complaint procedure was set out in *The Police Act, 1990.* It is in the best interest of the public and the police to have citizens' complaints resolved in order to maintain the spirit of co-operation that now exists.

Governing Legislation

Role of the Public Complaints Commission

The Public Complaints Commission (PCC) consists of five persons, including a chairperson and a vice-chairperson who are appointed by the Lieutenant Governor in Council. By legislation, at least one member must be a person of First Nations ancestry, at least one member must be a person of Métis ancestry, and at least one member must be a lawyer. The chairperson has the delegated authority to exercise the powers and to perform the duties imposed on the PCC.

Canada has long been recognized as a leader in the civilian oversight of the police. In 1992 Saskatchewan introduced legislation that identified a specific agency to address public complaints.

On April 1, 2006, following a consultation process with the Saskatchewan Association of Chiefs of Police, the Federation of Saskatchewan Indian Nations, the Saskatchewan Federation of Police Officers, Métis Family and Community Justice Services, and local police boards, the PCC was created. The PCC replaced the office of the Saskatchewan Police Complaints Investigator.

Pursuant to subsection 39(1) and (2) of *The Police Act, 1990*, the duties of the PCC are as follows:

(1) Where the PCC receives a public complaint pursuant to section 38, the PCC shall:

   (a) record the complaint received;

   (b) establish and maintain a record of all public complaints received by the police services and their dispositions;

(c) inform, advise and assist complainants;

(d) advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;

(e) monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest; and

(f) inspect annually, or at those times directed by the minister, the records, operations and systems of administration for the handling of public complaints by police services.

(2) In exercising the duties of the PCC pursuant to this section, the PCC:

(a) shall receive and obtain information respecting a public complaint from the complainant;

(b) may receive and obtain information respecting a public complaint from the member or chief who is the subject of the complaint, the chief or the board, in any manner that the investigator considers appropriate;

(c) may request access to any files or other material in the possession of the police service relevant to a public complaint; and

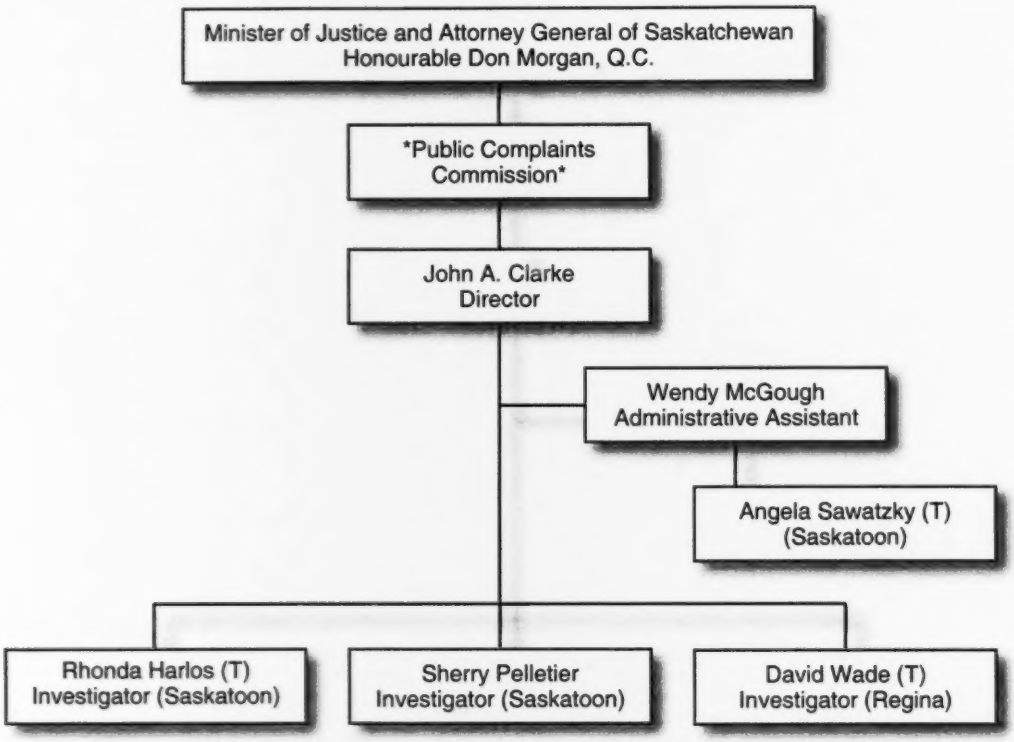
(d) may interview and take statements from the chief, board, complainant and the member or chief who is the subject of the public complaint.

The PCC determines whether the investigation of a public complaint will be conducted by:

- the PCC investigative staff;
- the police service whose member is the subject of the complaint;
- the police service whose member is the subject of the complaint with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC; or
- a police service other than the police service whose member is the subject of the complaint.

The Police Act, 1990 states that the Chief of Police is responsible for the maintenance of discipline. Although the majority of the PCC's findings are accepted by police chiefs, the findings are not binding on the Chiefs.

From time to time, differences of opinion with police chiefs have arisen and have resulted in healthy debate. While consensus is not always reached, the differences speak to the independence of the PCC.



* The Public Complaints Commission consists of five individuals including a chairperson and vice-chairperson. Members are appointed by the Lieutenant Governor in Council.

Public Complaints Commission

Members of the Public Complaints Commission

Members are appointed for a three-year term and may be reappointed for a second term. However, no member may be appointed to more than two successive terms.

The first year of operation provided many interesting challenges for the PCC as members developed and refined their duties and responsibilities.

Members meet twice a month to review new complaints, receive briefings on current investigations, and reach consensus on final determinations of completed investigations that culminate in written decisions.

Chair:

Robert W. Mitchell, Q.C., Regina

Vice Chair:

Catherine M. Knox, Lawyer, Saskatoon

Members:

- Loretta Elford, Regina, a former Director of Education with the Regina Public School Board and active community member
- Raymond Fox, North Battleford, member of the Sweetgrass First Nation, Director of Justice, Battlefords Tribal Council, and a councillor for the City of North Battleford
- Michel Maurice, Saskatoon, Métis Elder

Director:

John Clarke, responsible for the administration and daily operation of the PCC

Administrative Staff/ Accommodation

Saskatchewan Public Complaints Commission
Suite 300 - 1919 Saskatchewan Drive
REGINA SK S4P 4H2

Telephone:	(306) 787-6519
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SASKATOON SK S7K 2H6

Telephone:	(306) 964-1450
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Website: **www.publiccomplaintscommission.ca**

Message from the Chair

As Chair, and on behalf of PCC members, I extend our appreciation for the level of commitment and the quality of investigations conducted by our investigators. While the PCC continues to rely on police services to conduct a percentage of public complaint investigations, our own investigators are assuming an increasing number. These are sensitive or controversial matters that the PCC recognizes as most appropriately conducted by PCC investigators. Of note is an increasing number of requests from police services, which on initially receiving a public complaint, ask that the investigation be conducted by PCC investigators.

As Chair, and on behalf of the Commission members, I wish to extend our thanks and appreciation for the level of commitment and the quality of investigations conducted by our investigative team who are deployed in cases the Commission regards as sensitive or controversial. Their professionalism and investigative expertise have established excellent working relationships with the police services. I remain impressed by their unbiased, impartial and thorough approach to their investigations.

I would also express my gratitude and that of the Commission members for the excellence in service provided by our administrative assistant located in our Regina office, and for the efforts of our receptionist/office assistant in the Saskatoon office.

I wish to extend my personal gratitude to the members of the Public Complaints Commission for their untiring efforts and dedication to the independence of the public complaint process. Commission members must make some unpopular decisions from time-to-time as they seek to ensure that the public interest is well served. Commission members diligently ensure that members of the public and the police are guaranteed a fair and unbiased review of a public complaint. Commission members are not full-time employees and their commitment to this process is maintained despite their very busy professional pursuits.

Finally, the PCC continues to have the support and respect from the policing community. Those who support the PCC includes chiefs and senior officers of the municipal police services, the associations representing police officers and the officers themselves.

The FSIN had a great deal to do with the design of the program and has given the PCC its co-operation and support since it was established. The Métis Nation was also involved in the design of the program and is very supportive of it.

Saskatchewan is very fortunate to have a program of civilian oversight in place that enjoys this level of support.

Robert W. Mitchell, Q.C.
Chair

Progress in 2009-10

2009-10 Key Commitments

- Continue to receive, review and investigate complaints against Saskatchewan municipal police.
- Maintain an active role with the Canadian Association of Civilian Oversight for Law Enforcement (CACOLE) and continue to liaise with our provincial counterparts through this organization.
- Continue to take part in conferences that provide a forum for police officers, whose primary role is the investigation of public complaints and internal allegations of misconduct, to discuss current issues and share best practices.
- Continue to engage with the Commission for Public Complaints Against the RCMP.
- Deal with any allegations of police officer misconduct that occur while the officers were appointed as police officers in another province.
- Acquire and implement a new database program to enhance the PCC's ability to document and catalogue information.
- Establish a new website that will provide information on the public complaint process and allow for filing of a public complaint online.
- Continue to lecture to police recruit classes at the Saskatchewan Police College.
- Implement a mediation process piloted in 2008-09 to encourage greater use of informal resolution of public complaints.
- Maintain contact with the Saskatchewan Information and Privacy Commissioner; Saskatchewan Ombudsman; Saskatchewan Human Rights Commission; Public Prosecutions Division of the Saskatchewan Ministry of Justice and Attorney General; and the Federation of Saskatchewan Indian Nations, Special Investigations Unit.

2009-10 Results

- Received, reviewed and investigated complaints against Saskatchewan municipal police.
- The PCC maintained an active role with CACOLE with the PCC Chair holding the office of past president.

  CACOLE provides a forum for all Canadian civilian oversight agencies to share experiences and research information. It also provides an opportunity to discuss matters of mutual interest. The annual conference was held in Ottawa in June 2009. The PCC continues to liaise with our provincial counterparts through this medium.
- The Chair and Director attended a conference hosted by the Toronto Police Service, Professional Standards Division. This conference was designed to provide information for police officers engaged in the investigation of police misconduct, and others who are responsible for providing civilian oversight for police misconduct and public complaints. Attendees from across Canada and the United States discussed current issues and shared best practices.
- The PCC continued to engage with the Commission for Public Complaints Against the RCMP. The PCC recognizes that it is important to maintain an excellent working relationship with this Commission, as members of the RCMP and municipal police officers in Saskatchewan continue to work together on various specialized investigative units.

  The Chair and Director attended meetings in fall 2009 to discuss the possible implications for the various Canadian civilian oversight agencies. Many municipal police services, including those in Saskatchewan, provided police officers to assist with security or policing duties associated with the 2010 Winter Olympics.
- The PCC is currently investigating one allegation of police officer misconduct that occurred while the officer was appointed as a police officer in another province.

Saskatchewan is among the few provinces whose legislation provides a mechanism to deal with allegations of police officer misconduct, should the allegations occur while the officers were appointed as police officers in another province.

- In 2009-10, the PCC acquired a new database program from IAPro. This program will enhance the PCC's ability to document and catalogue information. It will enable the PCC to conduct in-depth research and provide immediate access to the most current statistical information. When historical information has been entered, the PCC will be able to provide meaningful analysis of the public complaint process. The program will assist in the identification of problematic trends in police misconduct and provide a comprehensive overview of the investigations conducted by the PCC.

- The PCC has established its own website that will become operational in 2010-11. The website will provide individuals with information about the public complaint process and the ability to file a public complaint on line. Further, to meet our commitment to providing a transparent process, the PCC will post its decisions on the website, at: **www.publiccomplaintscommission.ca.**

- The Director of the PCC lectured to police recruit classes at the Saskatchewan Police College in 2009-10. The lectures continue to provide police recruits with valuable insight into the public complaint process and help the recruits understand the important role played by civilian oversight.

  At the invitation of the Chief of Police, the Director also lectured to the Special Constable Training Program of the File Hills First Nations Police Service. The Special Constables have been appointed under *The Police Act, 1990* and are subject to the public complaint process.

- In implementing a mediation process piloted in 2008-09, the PCC, with the support of the various municipal police services and Saskatchewan Federation of Police Officers, encouraged greater use of informal resolution of public complaints.

  The PCC employed the services of the Dispute Resolution Office, Ministry of Justice and Attorney General, to provide a neutral mediator. The only information provided to the mediator is the substance of the complaint. The mediator meets with the complainant and subject police officer independently to determine if there is a genuine interest to resolve the matter. Should that condition be met, the parties are brought together.

  The mediator advises the PCC of the outcome only, and not of the specifics of the discussion. The discussion remains confidential, which enables the matter to be formally investigated if this informal process is not successful.

  Successful resolutions have produced positive feedback from complainants and police officers. Following are the verbatim comments about a police officer's experience with the informal resolution of a public complaint against the officer:

  > I just wanted to inform you that I sat today with (...) In regards to my mediation. I will be honest and say at first I was not looking forward to it, and prepared to attend with a negative attitude (for lack of better words). However, after sitting through the session, I found it to be very positive and rewarding as I learned something about myself and how I can be more professional. In the end the c/n and I both walked away with a positive attitude towards each other and the process. The end result it was all a misunderstanding. If there is anyone who has to go through this process and uncertain about it, feel free to have them contact me and I can share the experience in a positive way.

- The PCC maintained contact with the Saskatchewan Information and Privacy Commissioner; Saskatchewan Ombudsman; Saskatchewan Human Rights Commission; Public Prosecutions Division of the Saskatchewan Ministry of Justice and Attorney General; and the Federation of Saskatchewan Indian Nations, Special Investigations Unit.

2010-11 Plans

- Continue to receive, review and investigate complaints against Saskatchewan municipal police.
- Maintain an active role with the Canadian Association of Civilian Oversight for Law Enforcement (CACOLE) and continue to liaise with our provincial counterparts through this organization.
- Continue to take part in conferences that provide a forum for police officers, whose primary role is the investigation of public complaints and internal allegations of misconduct, to discuss current issues and share best practices.
- Continue to engage with the Commission for Public Complaints Against the RCMP.
- Deal with any allegations of police officer misconduct that occur while the officers were appointed as police officers in another province. Acquire and implement a new database program to enhance the PCC's ability to document and catalogue information.
- Implement the new website established in 2009-10, which will provide information on the public complaint process and allow for filing of public complaints online.
- Continue to lecture to police recruit classes at the Saskatchewan Police College.
- Continue to encourage greater use of mediation to bring about informal resolution of public complaints.
- Maintain contact with the Saskatchewan Information and Privacy Commissioner; Saskatchewan Ombudsman; Saskatchewan Human Rights Commission; Public Prosecutions Division of the Saskatchewan Ministry of Justice and Attorney General; and the Federation of Saskatchewan Indian Nations, Special Investigations Unit.

2009-10 Performance Measures

The statistics set out in the tables on this page are for the period April 1 to March 31, for the fiscal years 2006-07, 2007-08, 2008-09 and 2009-10. The following pages show the breakdown of complaints for each of the 11 municipal police services and three rural municipality police services in the province during the 2009-10 fiscal year.

Number of complaint files opened

Police Service	2006-07	2007-08	2008-09	2009-10
Regina	49	50	46	51
Saskatoon	81	57	73	79
Moose Jaw	1	3	2	2
Prince Albert	5	19	14	10
Estevan	4	1	6	10
Weyburn	1	1	1	1
Caronport	0	0	0	0
Dalmeny	0	0	1	0
File Hills	3	4	0	0
Luseland	0	0	0	0
Stoughton*	0	0	0	0
R.M. of Corman Park	2	0	0	1
R.M. of Vanscoy	0	0	0	0
R.M. of Wilton	0	0	1	0
Total Number of Files	**146**	**135**	**144**	**154**

* The 2009-10 statistics for Stoughton are for the period April 1 to September 30, 2009.

The table below shows the percentage of complaint files that fall within certain time-frames, during which the complaint is received, investigated, reviewed and the complainants are advised of the action taken with respect to their concerns.

Percentage of complaint files completed within given time-frames

Days	2006-07	2007-08	2008-09	2009-10
0 - 30	17	13	31	18
31 - 60	3	7	7	16
61 - 90	3	4	8	4
91 - 120	1	2	1	4
121 - 150	3	2	4	3
151 - 180	2	2	1	1
Over 181	4	7	10	19
Pending	67	63	38	35

Statistical Data

Findings of complaints received
April 1, 2009 to March 31, 2010

Police Service	Substantiated	Unsubstantiated	Unfounded	Withdrawn/ Other	Not Yet Completed	Total
Regina	4	6	25	7	20	62
Saskatoon	5	0	31	27	26	89
Moose Jaw	0	0	0	2	0	2
Prince Albert	3	0	3	1	6	13
Estevan	0	0	5	3	2	10
Weyburn	0	0	0	1	0	1
Caronport	0	0	0	0	0	0
Dalmeny	0	0	0	0	0	0
File Hills	0	0	0	0	0	0
Luseland	0	0	0	0	0	0
Stoughton	0	0	0	0	0	0
R.M. Corman Park	0	0	1	0	0	1
R.M. Vanscoy	0	0	0	0	0	0
R.M. Wilton	0	0	0	0	0	0
Total*	12	6	65	41	54	178

* While 154 complaints were filed, some had multiple complaints and findings.

Definition of complaint findings

- Substantiated - supported by evidence
- Unsubstantiated - allegation cannot be proved or disproved
- Unfounded - unsupported by evidence

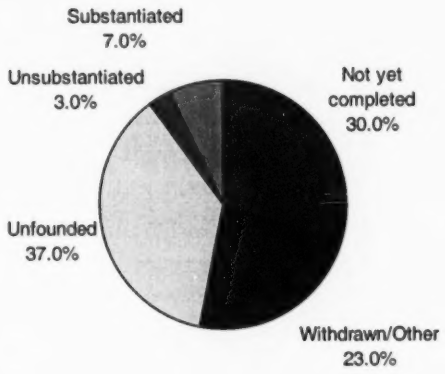
Definition of descriptions

- 36Av - Discreditable Conduct
- 36B - Insubordination
- 36C - Neglect of Duty
- 37Ai - Discreditable Conduct
- 37D - Improper Disclosure of Information
- 37E - Abuse of Authority

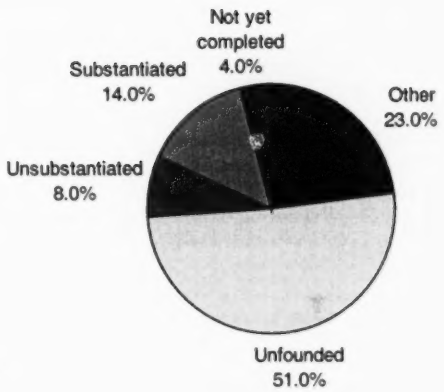
Classification of substantiated and unsubstantiated complaints
April 1, 2009 to March 31, 2010

Police Service	Substantiated	Description
Prince Albert	1	36Av
	2	36B
Regina	1	36Av
	2	36C
	1	37Ai
Saskatoon	1	37D
	1	37E
	3	36C
Police Service	**Unsubstantiated**	**Description**
Regina	3	36Av
	2	37E
	1	37Ai

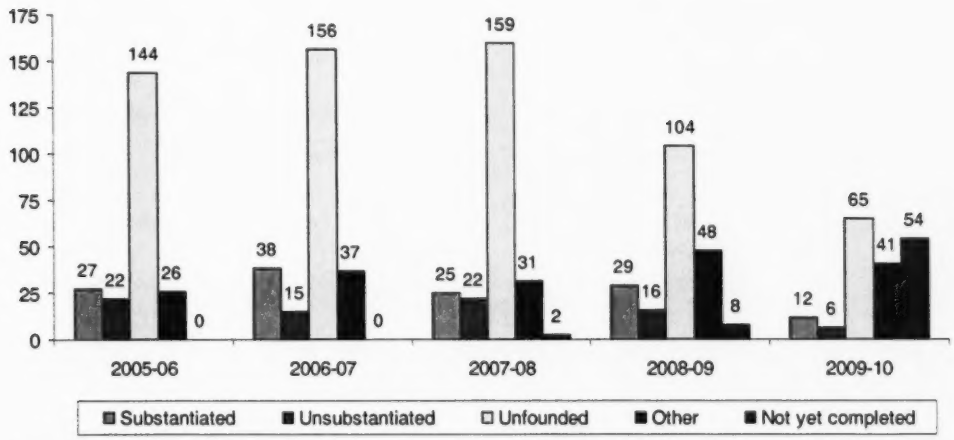
Complaint Findings
April 1, 2009 to March 31, 2010



Revised Complaint Findings
April 1, 2008 to March 31, 2009



Five-year Comparative Statistics
2005-06 to 2009-10



This table shows the number of complaints filed in each of the past five fiscal years, and the status of those complaints as of March 31, 2010. For instance, in 2008-09 there were 54 complaints reported as not yet completed. As of March 31, 2010, only eight of those complaints were not yet completed.

Types of Complaints Received

April 1, 2009 to March 31, 2010

	Total	Regina	Saskatoon	Moose Jaw	Prince Albert	Estevan	Weyburn	Caronport	Dalmeny	Luseland	Stoughton	File Hills	Corman Park	Vanscoy	Wilton
Type of Complaint															
Discreditable Conduct	34	15	16	1	1	1	0	0	0	0	0	0	0	0	0
Neglect of Duty	30	12	12	0	1	4	1	0	0	0	0	0	0	0	0
Insubordination	2	0	0	0	2	0	0	0	0	0	0	0	0	0	0
Improper Disclosure of Information	2	1	1	0	0	0	0	0	0	0	0	0	0	0	0
Corrupt Practice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Abuse of Authority	51	12	31	1	3	3	0	0	0	0	0	0	1	0	0
Improper Use of Firearms	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Damage to Police Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Wearing of Uniform	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Misuse of Liquor/ Drugs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal Conduct	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	5	2	3	0	0	0	0	0	0	0	0	0	0	0	0
Not Yet Completed	54	20	26	0	6	2	0	0	0	0	0	0	0	0	0

Case Summaries

The case summaries provided are a cross-section of the types of complaints received. The increased use of informal resolutions by the various police services is gratifying to note, particularly when complaints are based on lack of communication, or lack of understanding of police procedures and their enforcement, or investigational duties and responsibilities.

Mr. D

Mr. D complained he was assaulted by the police officers who arrested him. He stated that he had called the police service as he was having a dispute with a customer who refused to close the door at the car wash he managed. He believed the customer damaged a piece of equipment and should be charged. He indicated that he detained the customer's vehicle by disabling the car wash door. The customer left the premises, at which point Mr. D wanted the vehicle removed. Mr. D stated that when one of the police officers told him to open the door and release the vehicle, he went to the electrical panel and was looking for the correct switch. He indicated that he believed the customer was required to identify himself before Mr. D released the vehicle and he disagreed with the decision that the customer was not being charged. Mr. D stated that one of the officers shoved him and there was a further struggle with officers to handcuff him and place him in the police vehicle. He stated that he had verbally disagreed with the officers' failure to take action against the customer and questioned the authority to arrest him. Mr. D acknowledged that in addition to directing him to release the customer's vehicle, the officer verbally cautioned him that he could be arrested and during the arrest he was warned to stop resisting and comply with being handcuffed. In his statement, he did not make mention of being placed under arrest. However, he indicated there was mention of assault, but that in his opinion he had not touched anyone. Mr. D indicated that he received minor injuries during the incident. However, he did not require any medical examination.

A review of the police records and reports indicated that Mr. D's call to the police and one from the customer about the incident, were received about the same time. The officers' reports and statements regarding the complaint were consistent. One of the officers had dealt with Mr. D on a previous occasion where he had detained another customer's vehicle after a dispute about the use of the car wash facilities. Police records confirmed this and two other incidents where police had been called to intercede in disputes between Mr. D and other car wash customers.

The officers stated their preliminary enquiries revealed that there had been a verbal dispute that had escalated between Mr. D and the car wash patron. There were differing versions of how the car wash wand came to be on the floor and allegations that Mr. D had thrown coins at the customer. It was reported that he had yelled and shouted at the customer and had threatened to hold the customer's vehicle when he left to call police.

The officers stated that after obtaining information from both parties, it was determined that charges were not warranted due to differing versions of events and the minor nature of the incident. One of the officers informed Mr. D of this and advised him to let the customer depart. The officers stated that when they were making an explanation to the other party, Mr. D disappeared from view. It was determined that the car wash door control had been deactivated. One of the officers located Mr. D in the area of switches believed to control the door. The officer stated that Mr. D refused to activate the door and that he was aggressive and argumentative. The officer stated that Mr. D stepped very close to the officer and acted in an aggressive manner. The officer directed him to back away and then pushed Mr. D away with a hand to the chest when he would not back away from the officer. The officer stated that Mr. D was advised that he was under arrest for mischief and assault and the officer utilized an arm control technique to gain control. Officers stated that Mr. D failed to comply with verbal commands to enable handcuffing and he was taken to the floor. One strike was administered to his leg and one strike to the area of his head during the struggle to handcuff Mr. D, who remained argumentative while being escorted to the police car. Officers also learned that Mr. D had removed the licence plate from the customer's vehicle at some point.

As Mr. D alleged excessive use of force, Section 47 of *The Police Act, 1990,* required the circumstances be reviewed by the Ministry of Justice, Public Prosecutions Division, to determine if the conduct of the police officer(s) constitutes the criminal offence of assault. Following their review, Public Prosecutions

recommended that no criminal charges against the officers were warranted. Both officers' use of force was appropriate and reasonable in the circumstances. Section 25(1) of the *Criminal Code* justifies a police officer in using as much force as is necessary to accomplish her/his duty, provided that s/he acts on reasonable grounds.

Under the provisions of Section 35(2)(c) of *The Police Act, 1990,* the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991.* The Chief of Police reviewed these circumstances and recommended the conduct of the officers did not warrant disciplinary action.

I advised Mr. D that it was regrettable that he may have been injured in the struggle with the officers. The Public Complaints Commission takes matters related to the use of violence by police officers very seriously. Further, that the courts are the appropriate authority to determine if his actions constituted an offence for which he was charged.

I was satisfied that the officers were lawfully executing their duty and correctly sceptical of whatever authority Mr. D believed he had to detain the customer's vehicle. I was satisfied that the officers' decision was valid that charges were not warranted in the initial dispute, based on differing versions of events, and the minor nature. It was apparent that Mr. D was upset and agitated, and faced with his behaviour, there came a point where the officers were left little choice but to take him into custody. My review determined the force used progressed in response to Mr. D's failure to co-operate and follow directions. I was satisfied that the level of force used by the officers did not constitute improper conduct.

Mr. S

Mr. S stated that he was in police custody when he was taken to the hospital for a medical examination in the escort of a female police officer. While waiting for the examination, he and the officer were placed in a room off the emergency treatment area. He stated that he asked to use the washroom and described the officer moving the handcuffs from back to front and observing him through a partially open door, although he did not believe this was necessary. He stated that when the officer was again moving the handcuffs to attach him to the hospital bed, the officer grabbed his crotch. As a result, he pushed the officer and fled. Mr. S alleged that he was sexually assaulted by the officer.

Police records and reports confirm that Mr. S was properly in custody and taken for a medical examination at his request. The officer stated that after going to the washroom, while only one hand was secured by a handcuff, Mr. S pushed the officer and fled. The officer denied grabbing him by the crotch prior to his attempting to escape. The investigation established that the area of the hospital he fled from was an examination area surrounded by a curtain. There were other people, both hospital staff and others, in the area. It was determined that Mr. S did not call out or seek the assistance of anyone. He exited the hospital, after again striking the escort officer, and passed another police officer outside without asking for help. Mr. S entered a neighbouring residence, taking vehicle keys and the vehicle and departed driving erratically. He was ultimately located and taken back into custody.

Under the provisions of Section 35(2)(c) of *The Police Act, 1990,* the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991.* The Chief of the Police Service reviewed these circumstances and recommended further investigation be terminated and that the conduct of the officer did not warrant disciplinary action.

Following my review, I advised Mr. S that it appeared he persisted in being allowed to use the washroom while subject to reduced security at the hospital in the company of one escort officer. He fled at the first opportune moment when the handcuffs were partially removed. His actions, fleeing the hospital without calling out for assistance or availing himself to other responsible persons for help, taking a car and fleeing to another community were completely out of proportion to the circumstances, even if his version was accepted.

On a balance of probabilities there was no credible basis to support his allegation of misconduct. I further advised Mr. S

that I concurred with the police chief's recommendation that the investigation be terminated pursuant to Section 45(5)(b) of *The Police Act, 1990.*

Further investigation was terminated as I was satisfied the allegation against the police officer was without foundation.

Mr. F

Mr. F stated that he was arrested by several police officers and alleged that one of the arresting officers used excessive force. He stated that he had consumed liquor, but did not consider himself intoxicated. He stated that he had exited a licensed premises and was two to three blocks away when he was confronted by officers who immediately began striking him in the face, head and legs, and twisted his arm. Mr. F stated this resulted in bleeding, swelling and soreness.

The investigation revealed that the police service has a policy of uniformed officers regularly making patrols through licensed premises to prevent disturbances and other incidents. On this occasion, Mr. F was noted leaving the bar when officers arrived. Civilian witnesses told officers that he had been ejected from the licensed premise for behaving aggressively. When officers located him a short distance away, he was in the middle of the street waving his arms and making obscene gestures. Based on his reported behaviour and actions, an officer arrested Mr. F for intoxication. The officers stated that he resisted being handcuffed, attempted to pull his arms free and kicked at the officers. He was taken to the ground and two officers were required to handcuff Mr. F. He continued to resist as he was being placed in the police vehicle and refused to put his legs in the car. He kicked at an officer who was attempting to place his legs in the vehicle, striking the officer with a glancing blow to the head and knocking off the officer's glasses. The officer stated he entered the vehicle and struck at Mr. F to control his resistance. The investigation determined that at least one other police officer entered the back seat of the police vehicle at the same time and this officer was struck by the first officer's attempts to strike Mr. F.

The officer believed two blows made contact. Subsequently, Mr. F ceased to resist, the police vehicle was secured and he was transported to cells. At cells, another officer reported that Mr. F was combative and verbally abusive toward officers and he displayed dramatic swings in emotion.

As Mr. F alleged excessive use of force, Section 47 of *The Police Act, 1990,* required the circumstances be reviewed by Saskatchewan Ministry of Justice, Public Prosecutions, to determine if the conduct of the police officer(s) constitutes the criminal offence of assault. Following their review, Public Prosecutions recommended that the police officer's conduct did not meet the standard required for criminal prosecution.

It is the responsibility of Public Prosecutions to review investigations to determine if there is sufficient evidence to proceed with charges. The PCC does not have the authority to review or comment on the decisions of Public Prosecutions.

Under the provisions of Section 35(2)(c) of *The Police Act, 1990,* the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991.* The Chief of Police reviewed these circumstances and formed the opinion that the officers' actions were justified and complied with policies and directives. The Chief recommended that the conduct of the officers did not warrant disciplinary action.

I informed Mr. F that the PCC is an independent body, in general terms, to provide oversight to the integrity of the public complaints process. There is a balance between the appearance of second guessing every act after the fact and the need to consider the public good and police officer safety. In these circumstances, although Mr. F was correct in stating that he was subjected to the use of force, he was somewhat mistaken or vague in his description of his own behaviour and the detailed sequence of events. I am satisfied that the officers were completely honest and forthright, including details that may not be to their advantage. Thus, I am satisfied the officers properly determined that Mr. F was intoxicated, acted reasonably and lawfully arrested him. Faced with his noncompliance and resistance, the use of some force may have been justified.

The PCC's view differs from that of the Chief of Police in respect to justification of all elements of these circumstances. I am making specific reference to the amount of force used to place Mr. F's legs inside the police vehicle and the response of the officer when Mr. F struck a glancing kick to the officer's head. I made the following observation.

Police services use a "Use of Force Model" as a basis for training, policy and procedure, to guide officers' recognition and response to escalation and de-escalation of a subject's behaviour and the resulting use of force considerations. A consistent element of this mechanism is the requirement for continuous re-evaluation of the circumstances. In this case, Mr. F was placed in the police car on his back with his hands cuffed behind him. Even though he was not compliant and the vehicle could not be secured, in reality he was in a poor position to mount an attack or escape without the officer having ample opportunity to take action while re-evaluating the situation. This would include establishing the location of other officers he knew to be in the immediate area of the police vehicle. Without comment on the prudence of the officer's attempt to move Mr. F's legs into the vehicle with his hands and the vulnerable position that resulted, it was not acceptable that the officer was kicked. However, I am not satisfied that the officer's entering the vehicle and administering blows could be considered an effective technique to resolve the problem, which was Mr. F's failure to bring his legs into the car as requested.

I noted the officer's conduct was reviewed by an internal police Use of Force Review Committee who were satisfied that the response of the police officer and the use of force was appropriate in these circumstances

Communication between the Chief of Police and the PCC resulted in an impasse in this regard. However, I am satisfied that the officer's response to being kicked by Mr. F was inappropriate in the particular circumstances. Nevertheless, I have been advised that as part of the internal review process by the police service, subject matter experts reviewed alternate techniques with the officer involved to better handle future incidents.

I am satisfied that Mr. F's concerns have been thoroughly aired and reviewed. The PCC has determined, based on the balance of probabilities, that the response of the officer and the amount of force used was unnecessary and advised Mr. F accordingly. The allegation was substantiated.

Mr. N

Mr. N's complaint relates to the actions of a police officer who dealt with him in front of a movie theatre. He alleged that the officer treated him disrespectfully as a result of inadequately investigating a reported disagreement between Mr. N and a representative of the theatre. He stated that police were called as a result of his handing out pamphlets in the vicinity of the theatre and that he had been invited into the theatre to discuss the situation by theatre staff. Mr. N stated that when police arrived, an officer told him to leave the theatre and threatened possible charges without determining from Mr. N what had occurred.

Police records, reports and audio recordings of telephone communications, were reviewed. A report was received about 9:00 p.m. from a representative of the theatre indicating that an individual handing out pamphlets was interfering with patrons exiting the premise. The individual was gone when officers arrived a few minutes later. A subsequent call was received at 9:50. The dispatch record and audio recording were closely reviewed. It was determined that the civilian dispatch operator included in the detail of the report "is refusing to leave" when this was not specified in the audio recording of the complaint.

The same officer was present at the theatre in response to both reports. He stated that on the first occasion the subject of the report had already departed. The officer indicated that the representative of the theatre appeared upset and conveyed to him that she believed the individual was interfering with patrons leaving the theatre and soliciting money. The officer stated that in response to the second report, he encountered Mr. N inside the theatre with the theatre representative. He was aware of information from the earlier incident and the dispatch information that included details that Mr. N refused to leave. The officer took immediate action and directed Mr. N to leave. The officer agreed that he communicated in a direct, forceful fashion and he did not seek further explanation from Mr. N.

Under the provisions of Section 35(2)(c) of *The Police Act, 1990,* the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991.* The Chief of Police reviewed these circumstances and reported concern about the importance of accurately reflecting information from complainants in dispatch information. He determined that the responding officer had sufficient opportunity in these circumstances to ask questions and determine the nature of the call himself, as opposed to basing a decision strictly on dispatch information. The Chief of Police has advised that the responding officer and communications dispatcher have been provided Advice as to Future Conduct provided by Section 4 of *The Municipal Police Discipline Regulations, 1991* to prevent future incidents of this nature. The Chief recommended that the conduct of the officer did not warrant further disciplinary action.

I advised Mr. N, that the legislated mandate of the PCC relates to the conduct of police officers. I informed him that the PCC was satisfied that the Chief of Police had taken his concerns seriously; thoroughly and judiciously reviewed the circumstances and had taken appropriate action commensurate to the circumstances to prevent future similar occurrences.

I further advised Mr. N that the PCC was satisfied that his concerns had been appropriately addressed and that his allegation of an inadequate investigation was substantiated.

Mr. H

Mr. H alleged police officers were negligent and failed to conduct an adequate investigation of his complaint of being assaulted as he was leaving a licensed premise. He stated that he observed an unmarked police car nearby and approached, but before he arrived at the police car, he stated he was again assaulted, resulting in jewellery and clothing being torn from him. Mr. H stated that this was near the police car and he believed officers took no action for three minutes. When he did speak to an officer, he stated he was treated poorly and that the officer took only a brief statement and sent him away without offering medical assistance.

Police records, officers' reports and notes indicate that a passing plain clothes officer's attention was drawn to Mr. H and other individuals outside a licenced premises. The officer noted one individual walked away and then returned and kicked Mr. H. The officer called for backup and then pursued and arrested that individual. A second officer invited Mr. H into his police vehicle. The officer said that Mr. H was agitated and under the influence of alcohol. He reported that Mr. H refused to provide information as to what happened, indicating that he did not want to be seen as a 'rat.' The officer stated that he eventually convinced Mr. H to identify himself and provide some details. However, the information supplied by Mr. H did not include the assault for which a second individual was in custody and Mr. H provided insufficient information to determine what had occurred.

Mr. H wanted to leave the police vehicle. The officer stated that Mr. H did not request medical assistance and the officer did not observe injury that would require medical assistance. A third officer and a supervisor reported arriving as the incident unfolded. The officers confirmed that Mr. H appeared intoxicated and agitated. They were unsure of whether Mr. H or the other individual was the aggressor and confirmed the second officer made considerable efforts to gain information from Mr. H.

Documentation indicates that Mr. H brought two separate similar complaints forward about the police officers' lack of action, one to the officers' police service and another to the Public Complaints Commission. There is no indication that at any point, Mr. H provided the police service sufficient information upon which to base an investigation.

Under the provisions of Section 35(2)(c) of *The Police Act, 1990,* the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991.* The Acting Chief of the police service reviewed these circumstances and recommended that the conduct of the officers did not warrant disciplinary action or further investigation.

I informed Mr. H, there was no information to support his belief that plain clothes officers

sat in a vehicle, did nothing and watched him being assaulted for a protracted period. On the contrary, the information suggested there were several mobile unmarked vehicles in the area and plain clothes officers took immediate action. After the incident Mr. H withheld information from officers, even related to the events an officer witnessed, thereby interfering with further investigation.

I informed Mr. H that the PCC had thoroughly reviewed the circumstances and concluded there was no improper conduct by the officers.

General Comments

There were seven complaints that were concluded for lack of co-operation by complainants after making the initial complaint. The circumstances in each were relatively minor issues and the PCC was of the opinion that it was not in the public interest to conduct further investigation.

There were two complainants, who after making public complaints, requested to withdraw their public complaints in favour of having their concerns addressed internally by the Chief of Police. Following consultation with the police service, the PCC agreed to the withdrawal of the formal complaint. In one instance, the completed investigation was forwarded to Public Prosecutions who determined the officer's alleged threat did not meet the standard required for criminal prosecution. The Chief of Police determined the officer's conduct did not meet the standard of service expected by the police service. The officer was provided an appropriate level of guidance. The complainant was notified and expressed satisfaction with the seriousness with which the concern was treated by the Chief of Police.

The second incident was resolved informally with the involvement of the complainant and the police officer.

I cite these incidents as examples of the importance placed on a citizen's complaint by the police services, regardless that the matter was not treated as a public complaint by the PCC.

Budget Allocation

The following figures show the approved budget for the 2009-10 fiscal year.

Approved Budget	**$706,000**
Grant - F.S.I.N.	
Special Investigations Unit	164,800
Salaries, Honorariums, Per Diems	383,101
Operating Expenses	79,842
	$627,743